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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,008	08/22/2003	Hannong Rhim	17584	1464
23556	7590	10/04/2005	EXAMINER	
KIMBERLY-CLARK WORLDWIDE, INC. 401 NORTH LAKE STREET NEENAH, WI 54956			BUTLER, PATRICK	
			ART UNIT	PAPER NUMBER
			1732	

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/647,008

Applicant(s)

RHIM ET AL

Examiner

Patrick Butler

Art Unit

1732

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 13-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20040304, 20040916, 20050324, & 20050722
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Claims 13-18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 22 July 2005.

Information Disclosure Statement

The information disclosure statement filed 16 September 2005 and 04 March 2004 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because they contain references neither in English nor translated. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Methods of making stretchable nonwoven materials with controlled retraction force.

Double Patenting

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The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Omum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 6, 9-11, 15-17, 20, and 22-24 of U.S. Patent No. 6,881,375 of Topolkaraev et al. Although the conflicting claims are not identical, they are not patentably distinct from each other because they contain overlapping claims.

Instant Claim 1 reads on Claims 1, 2, 10, and 20. Instant Claims 2-4 read on Claim 3. Instant Claims 5, 10, and 11 read on Claims 6, 10, 20, and 22. Instant Claims 6 and 7 read on Claims 16 and 17. Instant Claim 8 reads on Claim 11. Instant Claim 9 reads on Claim 15. Instant Claim 11 reads on Claims 23 and 24. Instant Claim 12 reads on Claims 1, 9, 10, and 20.

Claims 1-7 and 9-12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 6, 7, 9, 10-14, 19, 20, 23, and 24 of U.S. Patent No. 6,896,843 of Topolkaraev et al. Although the

conflicting claims are not identical, they are not patentably distinct from each other because they contain overlapping claims.

Instant Claim 1 reads on Claim 1, 2, 7, 9, 10, and 20. Instant Claims 2-4 read on 2 and 3. Instant Claim 5 reads on Claims 6, 10, and 20. Instant Claims 6 and 7 read on Claims 1, 10, 13, 14, and 20. Instant Claim 9 reads on Claim 19. Instant Claims 10 and 11 read on Claims 6, 10, and 20. Instant Claim 11 reads on Claims 11, 12, 23, and 24. Instant Claim 12 reads on Claims 1 and 9.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Austin (US Patent No. 6,225,243).

With respect to Claim 1, Austin teaches making a nonwoven web by extruding two components (coextruding), the first being elastic and having more than 50% content by weight (greater than 70%) and the second one being thermoplastic and less than 50% content by weight (less than 30 %), attenuating and quenching the strands (spinline), drawing the filaments with air or around draw rolls (a fiber draw unit), collecting the drawn strands onto a web onto a foraminous surface (allowing said fibers to be deposited onto a surface to form a web wherein the fibers are relaxed), bonding the web of loose strands into a fabric (stabilizing the web and bonding said web to

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product a web demonstrating greater than about 25 percent machine direction stretch recovery) (see col. 3, lines 51-59; col. 4, lines 28-33; col. 6, lines 29-52). While the stretch recovery is a result effective variable, Austin does teach an example with >70% recovery (see col. 9, lines 38-45).

With respect to Claim 2, first component 1 is core and second component 2 is shell (See Fig. 1B).

With respect to Claims 3 and 4, the spinnerette (spinpack) is optionally positioned to extrude in an eccentric or concentric configuration.

With respect to Claim 5, a compression (compaction) roller is used to bond (stabilize) the fibers (see col. 7, lines 22-27; col. 8, lines 46-54).

With respect to Claims 6 and 7, after rollers 10/12, the fabric is no longer supported as it goes through rollers 13/13 and on to roll-up 14 (see Fig. 2). Since the fabric is being pulled, rather than pushed or carried, it is necessarily being stretched, particularly in the broad sense claimed. As rollers 13/13 and roll-up 14 acts to stretch the fabric, they would be the claimed stretch rolls (Claim 7).

With respect to Claim 8, the first elastic component is polyethylene (olefinic elastomers), polypropylene (olefinic elastomers), elastomeric polyolefins (olefinic elastomers), or nylon (amide block copolymers)(see col. 5, lines 1-9 and 18-23)).

With respect to Claim 9, the second thermoplastic component is polypropylene and polyethylene (polyolefins) (see col. 6, lines 11-15).

With respect to Claim 10 and 11, the web is thermal point bonded (see col. 8, lines 51-52).

With respect to Claim 12, Austin teaches the first component being elastic and having more than 50% content by weight (between 80 and 90 %) and the second one being thermoplastic and less than 50% content by weight (between 10 and 20 %). Austin reads on the claimed ranges overlap, and therefore the claim. Moreover, Austin teaches an example of 90/10 core/sheath allocation, which also reads on the claim (see col. 9, lines 46-53).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick Butler whose telephone number is 571-272-8517. The examiner can normally be reached on Monday through Friday 7:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on 571-272-1196. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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PB

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